

In re Appln. of Joseph F. Wenzl et al.
Application No. 09/924,668

REMARKS

Applicants submit this response to the Office Action of October 3, 2003. Pursuant to 37 C.F.R. §1.111, applicants respectfully request reconsideration of each and every grounds of the rejection of the claims set forth in the Office Action.

Applicants acknowledge that the Restriction Requirement, as set forth in Paper No. 4, has been made final. Applicants have thus indicated non-elected claims 12-15 as "Withdrawn" in this Amendment, but without prejudice to represent such claims in a divisional application.

The Office Action rejected claims 1-11 under 35 U.S.C. §112, ¶2 for indefiniteness. In particular, the Office Action determined that certain language used in the claims lacked antecedent basis and/or the phraseology was unclear. Applicants have reworded certain language in the claims to provide better consistency in terminology. Applicants respectfully submit that the Section 112 rejections have been overcome.

In this regard, the Office Action indicated a lack of understanding in the phraseology "motor controller object" as set forth in claim 11. Applicants have reworded that claim to provide better terminology in connection with its intended meaning. As explained in the specification in connection with a preferred embodiment of the invention, the security gate control system "uses object-oriented techniques within its system programs." (Specification at 22:8-9). Thus, in a preferred embodiment, certain software class definitions are employed to model the control software after functions of the control hardware. (*See id.* at 22:8 through 25:14). Consistent with these teachings, applicants have thus presented a clarifying amendment to claim 11. Those skilled in the art, however, should appreciate that the claim,

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as amended, should be construed to cover equivalent structures and elements under the doctrine of equivalents.

The Office Action indicated that claims 5 and 8-11 would be allowable if rewritten to overcome the §112 rejections and to include all of the limitations of the base claim and the intervening claims. Applicants appreciate the acknowledgment that these claims contain allowable subject matter. Applicants have rewritten claim 5 as new claim 16; claim 8 has been rewritten as new claim 17. Applicants submit that claims 16-17, and claims 9-11 and 18-19 dependent thereon, are now allowable.

The Office Action rejected the claims 1-4, and 6-7 under 35 U.S.C. §102(e) as being anticipated by Zander U.S. Patent 6,523,788 ("Zander"). According to the Office Action, Zander discloses a gate assembly having an elongated arm (32 or 34), a DC motor (80), a linkage mechanism (72) and an electrical control circuit as shown in Figure 7 of Zander.

Applicants respectfully traverse the rejection of claims 1-4, 6-7 as anticipated by Zander. Zander discloses a railroad crossing gate for a model train set. Because it is directed to a miniaturized crossing gate, the reference does not *enable* the subject matter in claims 1-4, 6 and 7. See *Rockwell International Corp. v. United States*, 147 F.3d 1358, 1365 (Fed. Cir. 1998) ("The prior art must be enabling"). As such, Zander should not be properly applied to the claims at issue.

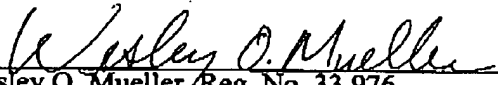
Unlike Zander's disclosure of a model train and gating therefor, the subject matter in applicants' claims relates to a real world application, including, among other things, a gate arm that is sufficient in length to impede the passage of a vehicle driven by a person. Apart from its other deficiencies, Zander fundamentally does not disclose this feature.

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Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,


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Amendment or ROA - Regular (Revised 5/1/03)